

ROUTING AND RECORD SHEET

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Ed,

Attached is per our telecon
today. Marsha Osterer's number
is (301) 593-9083.

Stan

The Profitable Lawyer

A Management Report for Smaller Firms

Law & Business, Inc./Harcourt Brace Jovanovich, Publishers Vol 2, No. 2, March 1985

Televising Your Talents

With competition heating up in the legal profession, many lawyers are taking to advertising to get their names out and build their business.

In the last issue of *THE PROFITABLE LAWYER*, we took a look at print advertising and how lawyers are and should be using it. This month, we examine television and radio.

TELEVISION

"Television is an extremely powerful medium," says Wellford Reed, president of Professional Images, Inc., a Richmond, Virginia-based advertising agency.

Powerful indeed. According to North Miami Beach attorney Phil Auerbach, his 10-lawyer personal injury firm has been using the medium for years and has been reaping the benefits. He recently settled a \$10 million child coma case, a \$12 million paraplegic case and a \$1 million air crash case—all of which came to him through television advertising, he says.

What does it take to telecast?

"Gross impressions"

The strength of television lies in its basic nature. Pictures are powerful. What's more, a television signal can cover a wide geographic and demographic area. Says Reed, its effectiveness is measured in "gross impressions." The concept refers to the number of viewers

who can be expected to see your commercial. Typically, he says, you must reach 200,000-300,000 to get your message across effectively.

Big budget

Of course, the major hurdle you must jump to reach such a broad audience is cost. Television advertising is expensive.

Many firms who want to use it aren't big enough to spend the money it takes to launch an effective campaign, says Reed. Before your firm embarks on this course, it has to commit itself to the time and money necessary to make it work, he explains.

What kind of budget is necessary depends on how big the television market you live in is, its demographic make-up, the times and stations you choose, whether

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Law Firm in the Spotlight

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WE'VE MOVED . . .

The editorial offices for *THE PROFITABLE LAWYER* have been relocated. If you have any comments or suggestions about articles, please address them to: Steve Seemer, *THE PROFITABLE LAWYER*, Law & Business, Inc., 855 Valley Road, Clifton, New Jersey 07013, or call, (1)(800) 223-0231; in N.J. call (201) 472-7400.

Staffing

Tips on Motivating Your Staff

It started out badly. Attorney Marsha Ostrer was assigned an unlikeable secretary when her regular one came down sick, and bad went to worse when one of Ostrer's colleagues in the Baltimore, Md. U.S. Attorney's Office began to maliciously pick at the staffer.

Although the secretary refused to deal with it openly (and report the misconduct to her temporary boss), Ostrer caught wind of the situation and fixed it—earning her instant respect from the staffer. As a result, says Ostrer, whenever she needed extra work done, or her secretary was off, there was always a ready and loyal volunteer.

Classic symptoms

Actively working to reduce friction among employees is one way to improve their motivation to work harder. But first you must be able to recognize what Ostrer, now a management consultant with Ostrer & Associates, Inc. in Silver Springs, Md., calls the "classic symptoms" of the poorly motivated staffer and deal with them.

Sure signs of poor motivation include:

- lateness to work
- doing only minimal work, with no initiative to do more
- frequent mistakes
- countless excuses

Tactics that work

Dealing with motivational problems and getting the best work possible from your employees is, says Ostrer, a subtle art, but one which must be mastered for the smooth functioning of your office. Her suggestions include:

■ **Get to know them as individuals.** "Ask them to tell you about what motivates them; give clear instructions for what you need done; establish the fact that

they are free to come back to you with suggestions, criticisms, or clarification.

"People respond well to the human touch. Try to remember birthdays and holidays, and try to tailor work assignments to fit individual interests."

■ **Involve them in the "team spirit."** People, continued Ostrer, "get interested in what they are *involved* in. Let them know about what they are working on and why it is important. If possible, allow for some client contact." (Some lawyers, she added, are comfortable with this while others are not.)

"Take them to hearings and trials; let them know how the cases turn out."

■ **Be generous with praise.** "If they have done a good job, then let them know this. If they haven't, separate the job from the person—talk about the specific problems with a task done poorly. If possible, let the employee generate his or her own steps to getting back on track. If they can come up with solutions themselves, then they are much more likely to implement them."

■ **Don't emphasize money.** Raises don't have the effects that they once had, explained Los Angeles attorney Jay Foonberg. Often the actual amount taken home is only slightly increased. Therefore, he continued, look for other motivational tools. "Ask the employee what he or she wants—often this is just a name-tag, a title, a three-day weekend, or extra work if they are in a money crunch. Don't assume your needs correspond exactly to theirs."

As an example, cited the attorney, "I used to bring flowers to all my female employees every Friday. Although they were appreciative of the practice, they came back with their own suggestion—that I bring them in on *Mondays* so they could enjoy them all week long. It's little things like this that remind them we're all working together."

"It takes a lot of effort to turn [poorly motivated employees] around," concluded Ostrer. "The hardest thing to do is open closed communication lines and clear the air. However, sooner or later action will become necessary. The longer you stall, the harder it gets." □

OF COUNSEL

THE MONTHLY LEGAL PRACTICE REPORT

Volume 4
Number 5
May 1985
Monthly

Up Front

Malpractice Insurance: Why Rates Are High and How Firms Are Coping

In the last few months, law firms of all sizes in all areas of the country have been hit with huge malpractice insurance rate increases. Some firms have seen their premiums jump 100 to 300 percent over what they paid last year. As Robert M. Parker, Assistant Vice President of the Home Insurance Company in New York, explains, "This is the beginning of a hard market."

What's behind the rate increases? And what can law firms do to limit further increases? Here's what OF COUNSEL has learned.

Worldwide turmoil

According to Gerry Brennan-Brooks, a vice president with the New York-based INAPRO, the underwriting arm of the CIGNA group, insurers have taken a "hosing" in the past two years on property and casualty insurance, including legal malpractice insurance. Last year alone, the industry lost \$21 billion on property and casualty claims. And in the past 18 months, Brennan-Brooks says, insurers have lost more money than in the previous 30 years.

Market driven

Insurers say that much of the loss is the direct result of the past six to eight year cycle of intense competition and price cutting among in the industry. "There was a lot of competition, a surfeit of companies or players, if you will, getting involved in writing insurance," explains Brennan-Brooks.

"As long as interest rates were high," asserts Washington lawyer Robert E. O'Malley, a partner with, Covington & Burling and Vice Chairman of Attorneys Liability Assurance Society (ALAS), a Bermuda-based mutual owned by and operated for law firms, "the in-

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Up Front

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attitudinal change in the division's management. They now feel that the attorney is part of their team."

The first big change is tentatively scheduled for August, when an as yet unspecified number of attorneys are transferred to the chemical division.

Eventually, the lead attorneys in each division will play a much greater role in law department budgeting and in the selection of outside counsel. Right now, Heider has sole responsibility for the department's budget and choosing outside counsel, which is used mainly for litigation and specialty areas such as international law.

Disadvantages

While decentralization will offer opportunities to both management and attorneys, Heider sees some

shortcomings for which he's still trying to think up solutions, including:

- **Communications**—"It's one thing to stay on top of things when an attorney is next door or down the hall, it's quite another when a car trip is involved," he says. "We are working to establish an entirely new pattern of communication."

- **Duplication of costs**—Each division is going to have to have its own library and word processing center. Travel costs will also rise.

- **Less flexibility**—When everyone is together, he says, workloads can be shifted in a crunch. However, with smaller groups, there are fewer people around to take on the excess work. Heider worries that eventually, he'll have to take on additional people that he might otherwise have not had to hire. □

threads linking them. These threads represent your high performance pattern. For the lawyer in the above examples, she pinpointed the following:

- **Situations where the odds against him were high.** In the first example, the high odds were the fact that the clients were the parents of the murderer and that the judge seemed predisposed against them. In the second, the odds were in taking on a course with no teaching background in an area that he wasn't very familiar with.

- **Believing in the cause.** In first case, he clearly felt that the grandparents ought to get the child. In the second, he proposed the course because he felt that the school should offer it.

- **Preparing to the point of knowing he could handle any outcome.** He had prepared the custody case so well he could impeach the brother and convince a hostile judge. He painstakingly prepared the law school course and knew he could handle it.

- **Having a high degree of interaction with others.** The lawyer didn't work well alone, says Ostrer. He liked to bandy about ideas with other people. In the custody case, he spent a great deal of time working with his clients. One of the outstanding parts of the law school class was the discussions he had with the students.

- **Having a personal relationship with the people he's working with.** He liked the custody case because his clients listened to him and had reasonable expectations. He also liked the law class because his students listened. (He taught the class a second time, but didn't like it as much. Reason: "The kids weren't interested in what I had to say.")

- **His work was acknowledged and appreciated.** In the first example, he won over a hostile judge and received the gratitude of his clients. In the second, the students took him out to dinner.

Discuss experiences with another

Once you have listed the common elements in your model experiences, says Ostrer, discuss them with someone else. There are several reasons for doing so.

First, talking to another person injects an element of objectivity and another perspective. That person can uncover important details or elements that you, working alone, missed. Initially, she says, you will probably be aware of approximately 80 percent of your pattern. Talking to another person allows you to round out the pattern with the other 20 percent that you wouldn't have recognized.

However, you must agree with every element that you list as part of your pattern, she cautions. Never add anything because someone else feels it's important. What works for one person could be a disaster for another.

Also, says Ostrer, in order for your pattern to operate most effectively, you must be able to tell people what you need. This step offers practice in doing so.

Using your pattern

Once you have found the elements of your pattern, the next step is to apply the pattern—to deliberately set up the conditions you need to get outstanding results. You can always produce short-term results by working harder or longer hours or by putting more resources into a project, says Ostrer. However, these actions are unsustainable, leading to stress and even burnout.

Start the process by comparing your pattern to your present situation and the things you are currently doing. For the lawyer in the above example, the first element of his pattern suggested that he was interested in representing the underdog. Both this element and the element of believing in a cause suggested a social consciousness orientation. Within that framework, he started targeting the marketing efforts for his firm toward environmental and civil rights groups.

Also, his current work environment had been unsatisfactory. Reason: there was no one available on a regular basis to bounce ideas off. However, he was able to identify someone in the firm whom he found very competent and with whom he enjoyed this kind of interaction. He set up regular meetings to discuss pending work with this person and worked on a number of cases with him.

Since the lawyer also felt the need to be listened to by his clients, a number of cases where he had felt dissatisfied were reviewed. In most, a key reason was that he had felt distant from the client. Steps that he could take to draw nearer to clients were identified and in most cases, they worked. In the few cases he felt he couldn't get the client to listen, he brought in someone else to work on the case and that person assumed more responsibility for client contact.

According to Ostrer, there is almost always a way to adjust a situation so that it fits your pattern better. Fundamental behavior patterns, of which your high performance pattern is one, are extremely difficult to change. Creating the conditions that encourage you to do your best work produces results without changing fundamental behavior. Says Ostrer, "The operating principle is don't change, rearrange." □

Malpractice

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1979. Based in Bermuda for tax purposes, ALAS is owned and operated by its 95 members.

In order to join, O'Malley states, a firm must have at least 40 attorneys and be based outside of New York City. Why the New York exclusion? It's historical in nature, he explains. When ALAS was first formed, New York firms expressed absolutely no interest in joining. They have traditionally used a single source at Lloyd's for insurance. So, they were excluded.

Here's How

Achieving High Performance: Maximum Achievement With Minimum Stress

"Think about the last time you finished a job and were genuinely surprised and delighted with what you had accomplished," asked Marsha Ostrer, president of the Silver Spring, Maryland-based consulting company Ostrer and Associates, Inc. More than likely, she concludes, you accomplished your goal without stress.

Why can't you perform like that all the time? According to Ostrer, you can achieve what she calls sustained high performance* not by changing, but by discovering the pattern of behavior that works best for you. "You don't trade in your car just because it needs a tune up," she observes. "Instead you keep the parts that work and replace those needed to insure maximum power and efficiency. Similarly, the way to increase productivity and performance is by utilizing and maximizing what already is in place."

Examine past history

To discover your high performance level, says Ostrer, you must first examine your own past history and find examples of experiences where you performed at a much higher level than usual.

For example, the parents of a man who had killed

his wife retained a lawyer to represent them in a custody for the couple's child. The lawyer liked the parents, who listened to his counsel and didn't expect miracles. As he approached the trial, the lawyer was scared to death even though he was thoroughly prepared. Reason: the judge had clear ideas about who should get custody of the child and it wasn't the lawyer's clients.

The high point for the lawyer came during cross examination of the dead woman's brother. He impeached the brother with drunk driving records showing him as a ne'er-do-well whose testimony couldn't be trusted. Even the judge became convinced. The lawyer carried the day for his clients.

Similarly, says Ostrer, the same lawyer related another high point in his life. He had proposed teaching a course that he thought a law school should have had in its curriculum, something he had never done before. Initially, he didn't know much about the subject but spent a great deal of time on preparation, researching it in depth and educating himself.

The classes went extremely well. The lectures were informative, yet interesting and often humorous. There were good discussions and much activity on the part of the class. The students were clearly interested in what he had to say and became involved. At the end of the course, the student evaluations were excellent. In addition, the students invited him to dinner to show their appreciation.

Find underlying conditions

Once you've identified performance high points, explains Ostrer, the next step is to find the common

* The high performance process was first developed by Dr. Jerry Fletcher of High Performance Dynamics, Inc., Richmond, California.